

**PREPARED REMARKS OF REPRESENTATIVE EDWARD J. MARKEY (D-MA)
HOUSE SUBCOMMITTEE ON TELECOMMUNICATIONS, TRADE AND
CONSUMER PROTECTION**

**HEARING ON "THE TOBACCO SETTLEMENT: VIEWS OF BUSINESSES
EXCLUDED FROM SETTLEMENT NEGOTIATIONS"**

FEBRUARY 25, 1998

Thank you Mr. Chairman, for calling this important hearing this morning to continue our Committee's examination of the proposed tobacco settlement negotiated by the attorneys general and the large tobacco companies. I want to begin by congratulating you for your successful effort to expand the Subcommittee's jurisdiction to cover the settlement, although it does not appear that today's hearing focuses on some of the product liability or consumer protection issues that have been our traditional focus. I also want to welcome members of the Health and Environment Subcommittee to today's hearing.

Just a few weeks ago, the full Committee heard testimony from the CEOs of the major cigarette companies and the largest smokeless tobacco corporation. I remain troubled by the fact that in many instances those witnesses were less than forthcoming about the settlement's implications with respect to immunity. And on the critical question of whether or not nicotine was addictive in the opinion of those CEOs, the committee received only qualified admissions.

Members of the panel testifying this morning are rightly concerned about their exclusion from the settlement negotiations. But, much of the written testimony that we have received from these witnesses skirts over the fact that their livelihoods and profit margins are derived from deadly products. Though their products may be sold legally to adults, that fact remains that they are lethal. Given the life and death stakes in this debate, this Committee and this Congress have an obligation to ensure that any legislation we pass sharply reduces youth access to all tobacco products.

While I applaud the efforts of the convenience stores to institute vigorous training for their sales staffs and the efforts of the vending machine interests to put lock-boxes on their machines, I would point out that in a recent study conducted in Massachusetts by Dr. Joseph DiFranza of the University of Massachusetts, fully one-third of the youths aged 12 to 17 were successful in their attempts to purchase tobacco. The study included a variety of vendors such as over-the-counter vendors, as well as vending machines with and without lock-boxes, some had even participated in "It's the Law" campaigns where educational materials and window stickers were distributed. Each vendor in the study was approached six times, and only 28 percent of the vendors consistently refused to sell tobacco to minors.

Dr. DiFranza has also found that youths can easily purchase tobacco if merchant compliance with the law is under 90 percent. In order to reduce tobacco use rates, compliance with the law must exceed 90 percent. Illegal sales of tobacco to minors are worth well over \$1 billion annually. This is difficult to give up for some of the bad actors in the system. If the National Association of Convenience Stores is sincere in its offer to attack this problem, it must do a much better job of aggressively weeding out the minority of retailers who resist losing this income.

I am also deeply troubled by the total lack of acknowledgment in the prepared statements of the witnesses on the devastating health effects of these products. For example, recent studies have found that a regular cigar had more than twice the tar yield of a filtered cigarette, and that a premium cigar has a tar yield nearly three times that of a filtered cigarette. And what's worse, the nicotine yields are ten and

thirteen times greater in regular and premium cigars, respectively. A recent story in the *Baltimore Sun* reports that the Centers for Disease Control and Prevention has found a rise in teen cigar smoking and recommended action to publicize the health risks and deglamorize the product. When one of today's witnesses was asked in the Sun story about the health risks of cigars, he said **"It's a no-win argument to even discuss,"**. And the smokeless tobacco council seems more concerned about its bottom line than its customers' bottom lips, offering little information on the oral cancer and other health consequences of the nicotine and various additives in smokeless tobacco.

Mr. Chairman, I recognize that the witnesses before us this morning were excluded from the settlement discussions last summer, but they were also excluded from the lawsuits that led to that settlement and from the accompanying scrutiny that the cigarette companies received in the media and in the Congress. **The witnesses have a right to petition the Congress to consider the impact of any legislation we pass on their businesses, but in so doing they should also acknowledge responsibility for the role they have played in selling these deadly products to the public or in getting or keeping kids hooked on tobacco. Let me put it this way: If you have been the derivative beneficiaries of every lie, obfuscation, dodge and denial run by the tobacco companies to maximize sales by hiding the lethal effects of these products, shouldn't you now be offering to share responsibility for the massive liability this has caused?** I look forward to exploring these issues further during the question and answer portion of this morning's hearing and to receiving the witnesses testimony. I yield back the balance of my time.